

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**BEATRICE HUDSON,**

**Plaintiff,**

**v.**

**PHYSICIANS MUTUAL INSURANCE  
COMPANY,**

**Defendant.**

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**8:05CV44**

**MEMORANDUM AND ORDER**

This matter is before the court on plaintiff's Motion for Disclosures (Filing No. 31), and Motion for Leave to file a Second Amended Complaint (Filing No. 30).

**Motion for Disclosures**

In plaintiff's motion for disclosures, she asks this court to order defendant to supplement its Rule 26 disclosures by providing plaintiff with copies of additional documents and things. Fed. R. Civ. P. 26 (a)(1)(B) requires that the defendant disclose the documents, data compilations, and tangible things with which defendant may use to support its claims or defenses. Defendant avers that the additional documents requested by plaintiff will not be used to support its claims or defenses, therefore, defendant is not required to furnish plaintiff with a copy of those documents pursuant to Fed. R. Civ. P. 26(a)(1)(B).

However, Fed. R. Civ. P. 34 allows plaintiff to request that a party produce and permit the plaintiff to inspect a copy of documents after the requesting party has given every other party to the action reasonable notice in writing. The party upon whom the request is served is then given 30 days after service of the request to respond in writing.

If the defendant fails to respond to a request for production of documents pursuant to Fed. R. Civ. P. 34 the plaintiff can then move this court to compel the defendant to cooperate.

Plaintiff does not need an Order from the court to request these documents. Usually, the opposing parties to a lawsuit attempt to obtain documents through the normal course of discovery before involving the court.

### **Motion to Amend**

Next, plaintiff asks the court for leave to amend her complaint. Fed. R. Civ. P. 15(a) provides that “a party may amend the party’s pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires.” Plaintiff did not provide a copy of the proposed amended complaint, and it is not clear from her motion on what basis she wishes to amend her complaint. However, in her reply to defendant’s opposition to her motion to amend, plaintiff states that she is requesting that the court order defendant to make all disclosures pursuant to Rule 26 and Rule 34. As was discussed above, defendant has stated that it has made all of its disclosures under Fed R. Civ. P. 26(a)(1)(B). If plaintiff would like to review additional relevant documents in defendant’s possession plaintiff can independently make a request for permission to inspect a copy of documents under Fed. R. Civ. P. 34 and does not need leave of court to do so.

If plaintiff still wishes to amend her complaint she shall file with this court a statement of what additional claims she wishes to add to her complaint by June 26, 2006.

IT IS ORDERED:

1. That plaintiff’s motion for disclosures (Filing No. 29) is denied.

2. That if plaintiff wishes to amend her complaint she shall file with this court a statement of what additional claims she wishes to add to her complaint by June 26, 2006.

DATED this 12<sup>th</sup> day of June, 2006.

BY THE COURT:

s/ F.A. Gossett  
United States Magistrate Judge